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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/724,371      | 11/29/2003  | Allan P. Bakke       |                     | 3246             |

7590 08/08/2006

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| EXAMINER |
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HUH, BENJAMIN

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| ART UNIT | PAPER NUMBER |
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3767

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/724,371

Applicant(s)

BAKKE, ALLAN P.

Examiner

Benjamin Huh

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 5/22/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☒ Claim(s) 9-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/29/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claim 8 contains subject matter that does not have proper antecedent basis in the specification which includes the flexible tube to be made of polyvinyl chloride or other resinous material, the diameter and thicknesses of the tube, the length and locations of the heater segments, the heater segments being electrically and mechanically joined together AT SAID OUTLET END of said flow line forming a series electrical resistance heater, and the proximal ends of the electrical resistance heater segments being electrically and mechanically adapted to be removable connected to a temperature controller.

Claim 9 contains subject matter that does not have proper antecedent basis in the specification which includes the electrical resistance heater to be a BARE metal wire and it's diameter.

Claim 10 contains subject matter that does not have proper antecedent basis in the specification which includes the BARE metal ribbon and it's dimensions.

Claim 11 contains subject matter that does not have proper antecedent basis in the specification which includes the electrical resistance heater is made of INSULATED wire.

Claim 12 contains subject matter that does not have proper antecedent basis in the specification which includes the electrical resistance heater to be made of metal with high temperature coefficient of resistance such as nickel or an alloy such as 70% Nickel, 30% iron.

Claim 13 contains subject matter that does not have proper antecedent basis in the specification which includes the electrical resistance heater segments to be HELICAL FORM on elongated rods or tubes of 0.1 inch diameter, the rod being made of plastic.

Claim 14 contains subject matter that does not have proper antecedent basis in the specification which includes the heater segment to be QUASI HELICAL form on FLEXIBLE STRIP SHAPED insulators and their dimensions.

The disclosure is objected to because of the following informalities: page 2 first paragraph of the specification is replete with errors ... multiple words are missing letters.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The subject matter not described is that of claim 8 section E wherein the claim states "said internal heater segments being electrically and mechanically joined together at said outlet end of said flow line forming a series electrical resistance heater" the applicant does not disclose in its specification "how and where" the connection is made.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, 1) "the length of the heater segments extending in length from about one half to nine tenths the length of the flexible tube flow line and extending all the way to said outlet end of said flow line", 2) "the internal heater segments being electrically and mechanically joined together at said outlet end of said flow line forming a series electrical resistance heater", 3) "the two proximal ends of said electrical resistance heater being electrically and mechanically adapted to be removably connected to a temperature controller located in said blood warmer apparatus", 4) "the electrical resistance heater segments to be a tightly spaced helical form on rods", and 5) "the electrical resistance heater segments in a tightly spaced quasi helical form on elongated flexible strip shaped insulators" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 8-14 are objected to because of the following informalities: The applicant should stay consistent with the use of terminology with respect to the flexible elongated electrical resistance heater segment. In some locations it is noted as a "heater segment" in other sections they are deemed "said internal heater segments" or "said electrical resistance heater segments". Appropriate correction is required.

***Allowable Subject Matter***

Claims 9-14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if the other objections to the specification, claims, and drawings are overcome.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Huh whose telephone number is 571-272-8208. The examiner can normally be reached on M-F: 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BHH

BHH

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

*Kevin C. Sirmons*